

HONOURABLE SRI JUSTICE J. CHELAMESWAR

AND

HONOURABLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION No.5643 OF 2007

DATE: -03-2007

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Between:

The Commissioner and Director of
School Education
Government of Andhra Pradesh,
Hyderabad & 2 others

.. **Petitioners**

And

S. Swaroopa Rani

.. **Respondent**

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ORDER: (Per Hon'ble Sri Justice P. Swaroop Reddy)

This Writ Petition is filed seeking Writ of *Certiorari* calling for the records relating to and connected with order dated 02-05-2006 in O.A. No.1366 of 2005 with M.A. No.2216 of 2005 on the file of A.P. Administrative Tribunal and to quash the same.

2. Petitioners and the respondent herein are respondents and applicant, respectively, in O.A. No.1366 of 2005.

3. For the sake of convenience, the parties herein are being referred as arrayed before the Administrative Tribunal.

4. Applicant filed O.A. for declaration that the action of the

respondents in not appointing her as Grade-II Language Pandit under Scheduled Castes local category though she secured 56 marks in DSC, 2003 and appointing the persons who secured lesser marks i.e., from 55 to 32, as illegal, improper, unjust, arbitrary and to call for the connected records including the proceedings in Rc.No.6119/A4/2005 dated 02-07-2005 and quash the same, and further to direct the respondents to appoint her as Grade-II Language Pandit under S.C. category.

5. The facts, in brief, are as follows:

Applicant applied for the post of Telugu Pandit Grade-II under Scheduled Castes-B category and participated in the selection process in DSC, 2003. According to her, she belongs to Madiga community which falls under Scheduled Castes (for short 'SC') Group - B and she secured 56 marks in DSC, 2003 and as the candidates, who secured 32 marks, belonging to SC category were selected, she is also eligible for selection as she secured 56 marks. On her representation dated 15-02-2005, respondents passed the proceedings in Rc.No.6119/A4/2005 dated 02-07-2005 rejecting her claim. According to the applicant, when she made application, she has mentioned her caste as SC-B category and enclosed copy of the caste certificate, in spite of the same, hall-ticket was issued to her treating her as OC candidate instead of SC. She made number of oral representations to the authorities concerned for correction of her caste as SC-B in the hall-ticket, which went in vain. After the examinations and valuation, respondents published results, wherein name of the

applicant did not find place. By the time results were published, categorization of SCs was struck down by the Supreme Court and the selections were required to be made taking entire SC community as one category. Since the applicant, who belongs to Schedule Caste, being considered as OC candidate was not selected.

6. In the counter affidavit filed on behalf of the respondents, it was stated that since the applicant did not mention her caste as SC-B, hall-ticket was issued to her treating her as OC candidate. Original records were called for before the Tribunal, which revealed that in her application, in column No.9 relating to caste, she ticked her caste as SC-B. She also enclosed copy of the caste, nativity and birth certificates showing her caste as 'Madiga'. On the basis of the above, Tribunal found that the contention that applicant had furnished wrong information with regard to her caste as OC, cannot be accepted, though there was no SC-B vacancy, as the categorization of SCs was struck down, applicant ought to have been selected and for the mistake committed by the respondents, applicant cannot be punished and accordingly O.A. was allowed.

7. Now as per the affidavit filed on behalf of the respondents (writ petitioners) in this writ petition, it is not disputed that applicant has secured 56 marks in the examination. It is also not disputed that SC candidates, who got less than 56 marks were selected. It is stated that the reason for not selecting the applicant is that her application was registered as OC candidate and hall-ticket was also issued as OC candidate and in OC category she

did not come in the zone of consideration for the marks secured by her.

It is stated that applicant in her application submitted her caste as OC for all purposes including in her hall-ticket. It is further stated that there is a provision for correction even after receiving hall-ticket, but she has not submitted any representation to make correction of her caste as SC instead of OC. The contention of the applicant that she orally represented to the District Educational Officer for correction of her caste as SC is denied and it is stated that she made representation to the District Collector and the Chairman of DSC, 2003 only after publishing the selection list, till then she never represented. In para 10 of the affidavit, it is mentioned that Director of School Education, A.P., Hyderabad in proceedings Rc.No.259/Rc.3/03 dated 19-08-2003, issued instructions in a similar case that as per Rule (7) of G.O.Ms. No.72/Education dated 13-07-2000, submission of any certificate after due date for submission of filled in application form, cannot be allowed. As such, under the impugned proceedings in the O.A., applicant was informed that it is not possible to make corrections in the records and consider her for the post of Telugu Pandit Grade-II in DSC, 2003. It is further stated in the affidavit that left over Telugu Pandit Grade-II vacancies of DSC 2003 have been carried forward to the vacancies of DSC 2006 and notified in the vacancies of DSC 2006, results of which are also released and selection process is going on, as such, it is not possible to consider the case of the applicant for her appointment as Telugu Pandit Grade-II in SC category.

8. Now it is contended on behalf of the respondents that

applicant has wrongly mentioned her caste as OC in the relevant column pertaining to computer feeding details, on the basis of which hall-ticket was generated and issued treating her as OC candidate, she has not taken any steps for rectification of the same, hence there is no provision for rectification of her case at this belated stage.

9. It is seen from the records that in the application for recruitment of Teachers in column No.9, which relates to caste, applicant has ticked column SC-B. In the portion of application for computerization purpose, in column No.9, code number is mentioned as '01'. Here also there is correction; something is altered into '01'. It is not known whether somebody else has manipulated that column.

10. However, the important fact is, there is no dispute that applicant belongs to SC community and she got 56 marks in DSC 2003 and persons, who got less than 56 marks, were also selected, as such, merely because, there was some mistake in one column of the application, which also might be without her knowledge as there is correction at the relevant place, the applicant cannot be deprived of her opportunity, particularly when in the application form, she has correctly mentioned her caste and the relevant certificates were also enclosed.

11. The contention as mentioned in para 10 of the affidavit of the respondents, that Director of School Education, A.P., Hyderabad vide proceedings in Rc.No.259/Rc.3/03 dated 19-08-2003 issued instructions in a similar case stating that as per Rule

7 of G.O. Ms. No.72/Education dated 13-07-2000 submission of any certificate after due date for submission of filled in application form, will not be allowed, has no relevance in this case as it is not a case of submission of certificates after due date, but it is a case of a mistake in one portion of the application form with reference to mentioning of caste. As already referred, there is a correction at the relevant column and it cannot be ruled out that subsequent to submission of her application, such correction was made without her knowledge and interference.

12. In paragraph 11 of the affidavit filed in support of the petition, it is stated that certain vacancies in DSC 2003 were not filled up and were carried forward to DSC 2006 and DSC 2006 results are also released and selection process is going on, which means, in DSC 2003 there were vacancies and as the list of DSC 2006 selection is not finalized, there would not be any difficulty for the respondents to accommodate the applicant in the vacancy of DSC 2003.

13. In the above circumstances, we see no grounds to interfere with the impugned order and the writ petition is liable to be dismissed.

The Writ Petition fails and is dismissed at the stage of admission. No order as to costs.

J. CHELAMESWAR, J

March _____, 2007

P. SWAROOP REDDY, J

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